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Globalization and interdependence: preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets, in particular to the countries of origin, consistent with the United Nations Convention against Corruption

Report of the Second Committee*

Rapporteur: Mr. Awsan **Ali-Aud** (Yemen)

I. Introduction

1. The Second Committee held a substantive debate on agenda item 51 (see A/63/416, para. 2). Action on sub-item (d) was taken at the 27th and 31st meetings, on 18 November and 11 December 2008. An account of the Committee's consideration of the sub-item is contained in the relevant summary records (A/C.2/63/SR.27 and 31).

II. Consideration of draft resolutions A/C.2/63/L.32 and A/C.2/63/L.60

2. At the 27th meeting, on 18 November, the representative of Antigua and Barbuda, on behalf of the States Members of the United Nations that are members of the Group of 77 and China, introduced a draft resolution entitled "Preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets, in particular to the countries of origin, consistent with the United Nations Convention against Corruption" (A/C.2/63/L.32), which read:

"*The General Assembly*,

"*Recalling* its resolutions 54/205 of 22 December 1999, 55/188 of 20 December 2000, 56/186 of 21 December 2001 and 57/244 of 20 December

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2002, and recalling also its resolutions 58/205 of 23 December 2003, 59/242 of 22 December 2004, 60/207 of 22 December 2005, 61/209 of 20 December 2006 and 62/202 of 19 December 2007,

"*Welcoming* the entry into force on 14 December 2005 of the United Nations Convention against Corruption,

"*Welcoming also* the convening of the second session of the Conference of the States Parties to the United Nations Convention against Corruption, in Nusa Dua, Indonesia, from 28 January to 1 February 2008, and stressing the need for States parties to take steps to implement the outcome of that Conference,

"*Recalling* the Monterrey Consensus of the International Conference on Financing for Development, which underlined that fighting corruption at all levels is a priority, and the Plan of Implementation of the World Summit on Sustainable Development ("Johannesburg Plan of Implementation"),

"*Recognizing* that fighting corruption at all levels is a priority and that corruption is a serious barrier to effective resource mobilization and allocation and diverts resources away from activities that are vital for poverty eradication, the fight against hunger, and economic and sustainable development,

"*Reiterating its concern* about the seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and the values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law, in particular when an inadequate national and international response leads to impunity,

"*Convinced* that corruption is no longer a local matter but a transnational phenomenon that affects all societies and economies, making international cooperation to prevent and control it essential,

"*Convinced also* that a stable and transparent environment for national and international commercial transaction in all countries is essential for the mobilization of investment, finance, technology, skills and other important resources, and recognizing that effective efforts at all levels to prevent and combat corruption in all its forms in all countries are essential elements of an improved national and international business environment,

"*Mindful* of the very important role that the private sector can play in fostering economic growth and development and of the active involvement of the United Nations system in facilitating the constructive participation and orderly interaction of the private sector in the development process by embracing universal principles and norms, such as honesty, transparency and accountability,

"*Recognizing* the concern about the laundering and the transfer and/or transaction of assets of illicit origin derived from corruption, and stressing the need to address this concern consistent with the United Nations Convention against Corruption,

"*Concerned* about the links between corruption in all its forms, including bribery, corruption-related money-laundering and the transfer of assets of

illicit origin, and other forms of crime, in particular organized crime and economic crime, including corporate tax evasion,

"*Noting* the particular concern of developing countries and countries with economies in transition regarding the return of assets of illicit origin derived from corruption, in particular to countries from which they originated, consistent with the principles of the United Nations Convention against Corruption, in particular chapter V, so as to enable countries to design and fund development projects, in accordance with their national priorities and in view of the importance that such assets can have to their sustainable development,

"*Noting also* that corrupt practices include public funds being illegally acquired, transferred and invested abroad,

"1. *Takes note* of the report of the Secretary-General;

"2. *Expresses concern* about the magnitude of corruption at all levels, including the scale of the transfer of assets of illicit origin derived from corruption, and in this regard reiterates its commitment to preventing and combating corrupt practices at all levels, consistent with the United Nations Convention against Corruption;

"3. *Condemns* corruption in all its forms, including bribery, money-laundering and the transfer of assets of illicit origin and other forms of crime, including corporate tax evasion;

"4. *Urges* all Governments to prevent, combat and penalize corruption in all its forms, including bribery, money-laundering and the transfer of illicitly acquired assets, and to work for the prompt return of such assets through asset recovery consistent with the principles of the United Nations Convention against Corruption, particularly chapter V;

"5. *Stresses* the need for transparency in the financial institutions, invites Member States to work on the identification and tracing of financial flows linked to corruption, the freezing or seizing of assets derived from corruption and the return of such assets, consistent with the United Nations Convention against Corruption, and encourages the promotion of human and institutional capacity-building in this regard;

"6. *Affirms* that additional measures should be sought to prevent the transfer abroad of assets derived from corruption, including to prevent the financial institutions in both countries of origin and destination being used to transfer or receive illicit funds, as well as to assist in their recovery and to return such assets to the requesting State, consistent with the United Nations Convention against Corruption;

"7. *Stresses* the importance of mutual legal assistance and encourages Member States to enhance international cooperation, consistent with the United Nations Convention against Corruption;

"8. *Welcomes* the high number of Member States that have already ratified or acceded to the United Nations Convention against Corruption and in this regard urges all Member States and competent regional economic integration organizations, within the limits of their competence, that have not

yet done so, to consider ratifying or acceding to the Convention as a matter of priority, and calls upon all States parties to fully implement the Convention as soon as possible;

"9. *Calls upon* States parties to continue to support the work carried out by the open-ended intergovernmental expert working groups on asset recovery, review of implementation and technical assistance in order to facilitate the full implementation of the United Nations Convention against Corruption, and the review thereof, and in this regard stresses the importance of the adoption of relevant legislation consistent with the Convention;

"10. *Welcomes* the submission on the self-assessment checklist of the implementation of the United Nations Convention against Corruption by the States parties, and encourages all States parties that have not yet done so to submit information through the self-assessment checklist as a follow-up mechanism to the first session of the Conference of the States Parties to the United Nations Convention against Corruption;

"11. *Welcomes* the efforts of Member States that have enacted laws and taken other positive measures in the fight against corruption in all its forms, including in accordance with the United Nations Convention against Corruption, and in this regard encourages Member States that have not yet done so to enact such laws and to implement effective measures at the national level and, in accordance with domestic law and policies, at the local level, to prevent and combat corruption;

"12. *Takes note* of the Stolen Asset Recovery Initiative of the United Nations Office on Drugs and Crime and the World Bank;

"13. *Calls for* further international cooperation, inter alia, through the United Nations system, in support of national, subregional and regional efforts to prevent and combat corrupt practices and the transfer of assets of illicit origin, consistent with the principles of the United Nations Convention against Corruption;

"14. *Requests* the international community to provide, inter alia, technical assistance to support national efforts to strengthen human and institutional capacity aimed at preventing and combating corrupt practices and the transfer of assets of illicit origin as well as for asset recovery consistent with the principles of the United Nations Convention against Corruption, particularly chapter V, and to support national efforts in formulating strategies for mainstreaming and promoting transparency and integrity in both the public and private sectors;

"15. *Reiterates its call upon* the private sector, at both the international and the national levels, including small and large companies and transnational corporations, to remain fully engaged in the fight against corruption, notes in this context the role that the Global Compact can play in anti-corruption and promoting transparency, and emphasizes the need for all relevant stakeholders, including within the United Nations system, as appropriate, to continue to promote corporate responsibility and accountability;

"16. *Requests* the Secretary-General to continue to provide the United Nations Office on Drugs and Crime with the resources necessary to enable it to

promote, in an effective manner, the implementation of the United Nations Convention against Corruption and to discharge its functions as the secretariat of the Conference of the States Parties to the Convention, in accordance with its mandate;

"17. *Takes note* of the offer of the Government of Qatar to host the third session of the Conference of the States Parties to the United Nations Convention against Corruption in 2009, and invites all parties and signatories to take measures aimed at promoting the full and effective implementation of the Convention;

"18. *Requests* the Secretary-General to submit to the General Assembly at its sixty-fourth session, a report on the implementation of the present resolution;

"19. *Decides* to include in the provisional agenda of its sixty-fourth session, under the item entitled 'Globalization and interdependence', the sub-item entitled 'Preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets, in particular to the countries of origin, consistent with the United Nations Convention against Corruption'."

3. At its 31st meeting, on 11 December, the Committee had before it a draft resolution entitled "Preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets, in particular to the countries of origin, consistent with the United Nations Convention against Corruption" (A/C.2/63/L.60), submitted by the Vice-Chairman of the Committee, Troy Torrington (Guyana), on the basis of informal consultations held on draft resolution A/C.2/63/L.32.

4. At the same meeting, the Secretary of the Committee read out a statement of programme budget implications of draft resolution A/C.2/63/L.60.

5. Also at its 31st meeting, on 11 December, the Committee adopted draft resolution A/C.2/63/L.60 (see para. 8).

6. After the adoption of draft resolution A/C.2/63/L.60, a statement was made by the Vice-Chairman (Guyana) (see A/C.2/63/SR.31).

7. In the light of the adoption of draft resolution A/C.2/63/L.60, draft resolution A/C.2/63/L.32 was withdrawn by its sponsors.

III. Recommendation of the Second Committee

8. The Second Committee recommends to the General Assembly the adoption of the following draft resolution:

Preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets, in particular to the countries of origin, consistent with the United Nations Convention against Corruption

The General Assembly,

Recalling its resolutions 54/205 of 22 December 1999, 55/188 of 20 December 2000, 56/186 of 21 December 2001 and 57/244 of 20 December 2002, and recalling also its resolutions 58/205 of 23 December 2003, 59/242 of 22 December 2004, 60/207 of 22 December 2005, 61/209 of 20 December 2006 and 62/202 of 19 December 2007,

Welcoming the entry into force on 14 December 2005 of the United Nations Convention against Corruption,[1]

Welcoming also the convening of the second session of the Conference of the States Parties to the United Nations Convention against Corruption, in Nusa Dua, Indonesia, from 28 January to 1 February 2008, and stressing the need for States parties to take steps to implement the outcome of that Conference,

Recalling the Monterrey Consensus of the International Conference on Financing for Development,[2] which underlined that fighting corruption at all levels is a priority, and the Plan of Implementation of the World Summit on Sustainable Development ("Johannesburg Plan of Implementation"),[3]

Recognizing that fighting corruption at all levels is a priority and that corruption is a serious barrier to effective resource mobilization and allocation and diverts resources away from activities that are vital for poverty eradication, the fight against hunger, and economic and sustainable development,

Emphasizing the need for solid democratic institutions responsive to the needs of the people and the need to improve the efficiency, transparency and accountability of domestic administration and public spending and the rule of law, to ensure full respect for human rights, including the right to development, and to eradicate corruption and build sound economic and social institutions,

Recalling that the fight against all forms of corruption requires strong institutions at all levels, including at the local level, able to undertake efficient preventive and law enforcement measures consistent with the United Nations Convention against Corruption, in particular chapters II and III,

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[1] United Nations, *Treaty Series*, vol. 2349, No. 42146.

[2] *Report of the International Conference on Financing for Development, Monterrey, Mexico, 18-22 March 2002* (United Nations publication, Sales No. E.02.II.A.7), chap. I, resolution 1, annex.

[3] *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 2, annex.

Determined to prevent, detect and deter in a more effective manner international transfers of illicitly acquired assets and to strengthen international cooperation on asset recovery, consistent with the United Nations Convention against Corruption,

Reiterating its concern about the seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and the values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law, in particular when an inadequate national and international response leads to impunity,

Convinced that corruption is no longer a local matter but a transnational phenomenon that affects all societies and economies, making international cooperation to prevent and control it essential,

Convinced also that a stable and transparent environment for national and international commercial transactions in all countries is essential for the mobilization of investment, finance, technology, skills and other important resources, and recognizing that effective efforts at all levels to prevent and combat corruption in all its forms in all countries are essential elements of an improved national and international business environment,

Mindful of the very important role that the private sector can play in fostering economic growth and development and of the active involvement of the United Nations system in facilitating the constructive participation and orderly interaction of the private sector in the development process by embracing universal principles and norms, such as honesty, transparency and accountability,

Recognizing the concern about the laundering and the transfer of assets of illicit origin derived from corruption, and stressing the need to address this concern consistent with the United Nations Convention against Corruption,

Concerned about the links between corruption in all its forms, including bribery, corruption-related money-laundering and the transfer of assets of illicit origin, and other forms of crime, in particular organized crime and economic crime,

Noting the particular concern of developing countries and countries with economies in transition regarding the return of assets of illicit origin derived from corruption, in particular to countries from which they originated, consistent with the principles of the United Nations Convention against Corruption, in particular chapter V, so as to enable countries to design and fund development projects in accordance with their national priorities, in view of the importance that such assets can have to their sustainable development,

Noting also that corrupt practices include public funds being illegally acquired, transferred, invested abroad or laundered,

1. *Takes note* of the report of the Secretary-General;[4]

2. *Expresses concern* about the magnitude of corruption at all levels, including the scale of the transfer of assets of illicit origin derived from corruption, and in this regard reiterates its commitment to preventing and combating corrupt

[4] A/63/88.

practices at all levels, consistent with the United Nations Convention against Corruption;[1]

3. *Condemns* corruption in all its forms, including bribery, as well as the laundering of proceeds of corruption and other forms of economic crime;

4. *Urges* all Governments to combat and penalize corruption in all its forms as well as the laundering of proceeds of corruption, to prevent the transfer of illicitly acquired assets, and to work for the prompt return of such assets through asset recovery consistent with the principles of the United Nations Convention against Corruption, particularly chapter V;

5. *Stresses* the need for transparency in financial institutions, invites Member States to work on the identification and tracing of financial flows linked to corruption, the freezing or seizing of assets derived from corruption and the return of such assets, consistent with the United Nations Convention against Corruption, and encourages the promotion of human and institutional capacity-building in this regard;

6. *Affirms* the need for Member States, consistent with the United Nations Convention against Corruption, to take measures to prevent the transfer abroad and laundering of assets derived from corruption, including to prevent the financial institutions in both countries of origin and destination from being used to transfer or receive illicit funds, as well as to assist in their recovery and to return such assets to the requesting State consistent with the United Nations Convention against Corruption;

7. *Stresses* the importance of mutual legal assistance and encourages Member States to enhance international cooperation, consistent with the United Nations Convention against Corruption;

8. *Welcomes* the high number of Member States that have already ratified or acceded to the United Nations Convention against Corruption, and in this regard urges all Member States and competent regional economic integration organizations, within the limits of their competence, that have not yet done so to consider ratifying or acceding to the United Nations Convention against Corruption as a matter of priority, and calls upon all States parties to fully implement the Convention as soon as possible;

9. *Calls upon* States parties to continue to support the work carried out by the Open-ended Intergovernmental Expert Working Groups on Asset Recovery, Technical Assistance and Review of Implementation in order to facilitate the full implementation of the United Nations Convention against Corruption, and the review thereof, and in this regard encourages the Conference of the States Parties to the United Nations Convention against Corruption at its third session to consider the recommendations prepared by the three working groups, including the terms of reference for a review mechanism;

10. *Welcomes* the responses already received to the self-assessment checklist on the implementation of the United Nations Convention against Corruption, and encourages all States parties that have not yet done so to submit the self-assessment checklist to the United Nations Office on Drugs and Crime;

11. *Also welcomes* the efforts of Member States that have enacted laws and taken other positive measures in the fight against corruption in all its forms,

including in accordance with the United Nations Convention against Corruption, and in this regard encourages Member States that have not yet done so to enact such laws and to implement effective measures at the national level and, in accordance with domestic law and policies, at the local level, to prevent and combat corruption;

12. *Takes note with appreciation* of the Stolen Asset Recovery Initiative of the United Nations Office on Drugs and Crime and the World Bank, takes note of its cooperation with relevant partners, including the International Centre for Asset Recovery, and encourages coordination among existing initiatives;

13. *Calls for* further international cooperation, inter alia, through the United Nations system, in support of national, subregional and regional efforts to prevent and combat corrupt practices and the transfer of assets of illicit origin, consistent with the principles of the United Nations Convention against Corruption, and in this regard encourages close cooperation between anti-corruption agencies, law enforcement agencies and financial intelligence units;

14. *Urges* all Member States, consistent with the United Nations Convention against Corruption, to abide by the principles of proper management of public affairs and public property, fairness, responsibility and equality before the law and the need to safeguard integrity and to foster a culture of transparency, accountability and rejection of corruption;

15. *Encourages* Member States to provide adequate financial and human resources to the United Nations Office on Drugs and Crime, including for the effective implementation of the United Nations Convention against Corruption, and also encourages the Office to give high priority to technical cooperation, upon request, inter alia, to promote and facilitate the ratification, acceptance, approval of or accession to and the implementation of the Convention;

16. *Requests* the international community to provide, inter alia, technical assistance to support national efforts to strengthen human and institutional capacity aimed at preventing and combating corrupt practices and the transfer of assets of illicit origin as well as for asset recovery consistent with the principles of the United Nations Convention against Corruption, particularly chapter V, and to support national efforts in formulating strategies for mainstreaming and promoting transparency and integrity in both the public and the private sectors;

17. *Encourages* Member States that have not yet done so to require financial institutions to properly implement comprehensive due diligence and vigilance programmes, consistent with the principles of the United Nations Convention against Corruption and those of other relevant applicable instruments;

18. *Reiterates its call upon* the private sector, at both the international and the national levels, including small and large companies and transnational corporations, to remain fully engaged in the fight against corruption, notes in this context the role that the United Nations Global Compact can play in fighting corruption and promoting transparency, and emphasizes the need for all relevant stakeholders, including within the United Nations system, as appropriate, to continue to promote corporate responsibility and accountability;

19. *Requests* the Secretary-General to continue to provide the United Nations Office on Drugs and Crime with the resources necessary to enable it to promote, in an effective manner, the implementation of the United Nations Convention against

Corruption and to discharge its functions as the secretariat of the Conference of the States Parties to the Convention, in accordance with its mandate;

20. *Takes note* of the offer of the Government of Qatar to host the third session of the Conference of the States Parties to the United Nations Convention against Corruption in 2009, and invites all States parties and signatories to take measures aimed at promoting the full and effective implementation of the Convention;

21. *Requests* the Secretary-General to submit to the General Assembly, at its sixty-fourth session, a report on the implementation of the present resolution and also to transmit to the Assembly a report on the third session of the Conference of the States Parties to the United Nations Convention against Corruption;

22. *Decides* to include in the provisional agenda of its sixty-fourth session, under the item entitled "Globalization and interdependence", the sub-item entitled "Preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets, in particular to the countries of origin, consistent with the United Nations Convention against Corruption".